

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

Joe Espinoza,

NO. C 09-04111 JW

Plaintiff,

**ORDER TO SHOW CAUSE RE:  
DISMISSAL FOR LACK OF  
PROSECUTION**

v.

Wells Fargo Bank, N.A., et al.,

Defendants.

On November 18, 2009, the Court issued an Order Granting Defendants' Motion to Dismiss With Leave to Amend. (hereafter, "Order," Docket Item No. 18.) The Court directed Plaintiff to file his Amended Complaint on or before December 4, 2009. (*Id.* at 5.) The Court clearly warned that, "Failure to timely file an Amended Complaint or file one that tracks the terms of this Order may result in sanctions pursuant to Rule 41(b) of the Federal Rules of Civil Procedure." (*Id.*)

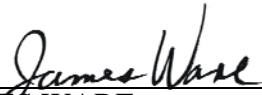
To date, Plaintiff has failed to file his Amended Complaint or otherwise communicate with the Court. Defendants, on the other hand, have filed a Notice of Plaintiff's Failure to Amend Complaint. (Docket Item No. 19.)

The Court hereby orders Plaintiff to appear in Courtroom No. 8, 4th Floor, United States District Court, 280 South First Street, San Jose, Ca. on **January 25, 2010 at 9:00 a.m.** to show cause, if any, by actual appearance in Court, and by certification filed with the Court on or **January 4, 2010**, why this case should not be dismissed for failure to prosecute. The certificate shall set forth in factual summary the reason no Amended Complaint has been filed and what steps Plaintiff is

1 taking to prosecute the action. If Plaintiff fails to file the certification, the January 25 hearing will  
2 be vacated automatically and the case will be dismissed.

3 Failure to comply with any part of this Order will be deemed sufficient grounds to dismiss  
4 this action pursuant to Fed. R. Civ. P. 41(b).

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6  
7 Dated: December 17, 2009

  
\_\_\_\_\_  
JAMES WARE  
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Nicole Kimberly Neff nneff@wrightlegal.net  
3 T. Robert Finlay rfinlay@wrightlegal.net  
4 Tracy Lee Wood tracyleewood@yahoo.com

5 **Dated: December 17, 2009**

**Richard W. Wieking, Clerk**

6  
7 **By: /s/ JW Chambers**  
8 **Elizabeth Garcia**  
9 **Courtroom Deputy**  
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